

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

U.S. BANK NATIONAL ASSOCIATION
AS TRUSTEE FOR CSMC MORTGAGE-
BACKED TRUST 2007-3, AND PHH
MORTGAGE CORPORATION, INDIVIDUALLY
AND AS SUCCESSOR-IN-INTEREST TO
OCWEN LOAN SERVICING, LLC

Plaintiffs,

V.

JOSEF M. LAMELL AKA J.M. ARPAD
LAMELL,

Defendant.

[illegible]

CIVIL ACTION H-19-2402

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Pending before the court is Magistrate Judge Christina Bryan’s Memorandum and Recommendation (M&R) addressing U.S. Bank National Association’s (“USBNA”) and PHH Mortgage Corporation’s (“PHH”) motion to dismiss defendant Lamell’s original answer (Dkt. 43), motion to strike defense of fraud (Dkt. 45), and motion to dismiss Lamell’s amended counterclaims (Dkt. 49). Dkt. 81.¹ The Magistrate Judge recommended that 1) the first motion be denied as moot, and 2) the second and third motions be granted. *Id.* Lamell filed objections. Dkt. 90.


For dispositive matters, the court “determine(s) de novo any part of the magistrate judge's disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3). The court has conducted

¹ Also pending before the court is the Magistrate Judge's amended M&R addressing USBNA's and PHH's motion for summary judgment. Dkt. 86. The court DEFERS ruling on the M&R relating to the plaintiffs' motion for summary judgment.

a de novo review of the M&R and Lamell's objections.² The court OVERRULES Lamell's objections and ADOPTS the M&R in its entirety.

Accordingly, the M&R is ADOPTED IN FULL (Dkt. 81). Both the motion to dismiss Lamell's amended counterclaims (Dkt. 49) and the motion to strike (Dkt. 45) are GRANTED. The motion to dismiss defendant Lamell's original answer (Dkt. 43) is DENIED AS MOOT.

Signed at Houston, Texas on March 11, 2021.



Gray H. Miller
Senior United States District Judge

² Lamell cites to no cases to support the arguments in his brief but cites to a Johnny Cash song for the proposition that “[a]s it relates to rights and interests, the mere fact that two parties might be called by the same name does not mean their rights and interests are the same.” Dkt. 90 at 20 (citing Johnny Cash, *A Boy Named Sue* (Columbia Records, 1969)). However, *A Boy Named Sue* does not support the proposition for which it is cited, and Johnny Cash is not binding on the court.